

R E M A R K S

In response to the rejection of claims 1 - 14, 17 - 25 and 27 - 32 under 35 U.S.C. §112, second paragraph, the term "dislocation linear velocity" has been replaced by "uppermost recrystallization linear velocity" throughout the claims, and in claim 13, "CiN" has been replaced by "SiN." It is believed that these amendments self-evidently overcome all points of the §112 rejection. Since this Amendment does not increase either the total number of claims or the number of independent claims, no additional fee is necessary.

Claims 1 - 14, 17 - 25 and 27 - 32 are in the application. No claim has been allowed.

With reference to the rejection of the claims on the cited art, applicants submit as follows:

(1) The Examiner asserts that the present invention is obvious to a person skilled in the art from a combination of recording velocities of Ando et al. '543 (Ando) and Hisatomi et al. WO 99/38168 (Hisotomi) and uppermost recrystallization velocities in Yamada et al. '025 (Yamada). Concretely, Yamada discloses the uppermost recrystallization velocity of 4.7 m/s which is  $0.97 \times V_r$  (the recording velocity) in Example 2, and the uppermost recrystallization velocity of 4.8 m/s which is equal to  $V_r$  (the recording velocity) in Example 6. Further, EP 1058249 discloses uppermost recrystallization velocity of 8.8 m/s and recording velocity of 9.6 ms in Example 5, and uppermost recrystallization velocity of 9.9 m/s and recording velocity of 9.6 m/s in Example 8.

(2) However, Yamada and EP 1058249 fail to clearly disclose that the recording velocities of 4.8 m/s and 9.6 m/s correspond to "standard recording linear velocity" stored on the optical information recording medium or "recording linear velocity" which

coincides with information on a maximum recording linear velocity. Therefore, the "recording linear velocity" in Yamada and EP 1058249 is a mere evaluated recording linear velocity, which fails to clearly specify the recording linear velocity as which one of the standard recording linear velocity, maximum recording linear velocity, minimum recording linear velocity, and medium recording linear velocity. Therefore, the Examiner's view that evaluated recording linear velocity equals to standard recording linear velocity (Vr) information is not supported by the disclosures of the applied references.

(3) Even if the evaluated recording linear velocity is regarded as the standard recording linear velocity as a performance of the optical information recording medium, the person skilled in the art may not clearly understand that evaluated recording linear velocity equals to standard recording linear velocity (Vr) information, actually. A person skilled in the art may regard a recording linear velocity which is quite slower than evaluated recording linear velocity as the standard recording linear velocity and regard the recording linear velocity as information on the optical information recording medium, considering fluctuation of performances of a driving apparatus and the optical information recording medium.

(4) In the present invention, a combination of recording linear velocity information of the optical information recording medium and dislocation linear velocity or uppermost recrystallization velocity which is a thermal characteristic of the optical information recording medium is presented, in order to realize a high speed recording at the cost of performance in low-speed recording or to realize a recording at higher speed than that of maximum recording linear velocity information of the optical

information recording medium. As disclosed in the first embodiment, recording at higher speed than that of maximum recording linear velocity information of the optical information recording medium is realized when recording information on the optical information recording medium using a driving apparatus.<sup>1</sup>

(5) On the contrary, in the conventional art described at p. 5, line 25 - p. 6, line 7, in applicant's specification, the dislocation linear velocity was designed to be smaller than 0.85 times the maximum recording linear velocity. The recording linear velocity was designed to be between the minimum and maximum recording linear velocity to obtain flat performance from low-speed recording to high-speed recording. Further, in the conventional art, recording a higher speed than the maximum recording linear velocity was impossible.

What is lacking in Yamada, Ando, Hisotomi and EP 1058249 in the above respects is not supplied by Yamada et al. JP 2000-079761 or by Nobokuni et al. EP 1056077.<sup>1</sup> These references are applied only for their asserted disclosures of structures, dimensions and compositions.

Therefore, it is submitted that claim 1 distinguishes patentably over Yamada in view of Ando and Hisotomi as applied in section 5 on p. 3 of the Office Action; over EP 1058249 in view of Ando and Hisotomi as applied in section 6 on p. 4 of the Office Action; over Yamada et al. JP 2000-079761 in view of Yamada, Ando or Hisotomi as applied in section 7 on p. 5 of the Office Action; and over

---

<sup>1</sup>It is assumed that the citation of "Yamada et al. JP 2000-079761" in numbered section 8 at p. 6 of the Office Action is intended to refer to Nobonuki et el. EP 1056077, as the rejection in section 8 would otherwise appear redundant to that set forth in section 7 at pp. 5-6 of the Office Action. The present response is based on that assumption.

Nobokuni et al. EP 1056077 in view of Yamada, Ando or Hisotomi as applied in paragraph 8 of the Office Action, by virtue of the recital, in claim 1, of the novel and unobvious combination of features discussed above. Claims 2 - 14, 17 - 25 and 27 - 32, all of which are directly or indirectly dependent on claim 1, are submitted to be allowable therewith.

For the foregoing reasons, it is believed that this application is now in condition for allowance. Favorable action thereon is accordingly courteously requested.

Respectfully,

*Christopher C. Dunham*

Christopher C. Dunham  
Reg. No. 22,031  
Attorney for Applicant  
Tel. (212) 278-0400

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

*Christopher C. Dunham*  
Christopher C. Dunham, Reg. No. 22,031  
Date: MARCH 15, 2006